



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: RCW 48.19.370 requires the commissioner to adopt rules and statistical plans for property and casualty insurance. WAC 284-24-015 has not been amended since 1998, and includes information that is no longer accurate. WAC 284-24-015 is repealed and replaced with Chapter 284-24B that sets forth a process for insurers to report insurance statistical data and for qualifying entities to be designated as statistical agents. Chapter 284-24C sets forth specific data elements that medical malpractice insurers and their statistical agents must collect.

Insurance Commissioner Matter No. R 2005-02

Citation of existing rules affected by this order:

Repealed: WAC 284-24-015

Amended:

Suspended:

Statutory authority for adoption: RCW 48.02.060, 48.19.370

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-24-088 on December 6, 2005 (date).

Describe any changes other than editing from proposed to adopted version:

Chapter 284-24B WAC

A new section was added to provide an effective date for the rule.

Chapter 284-24C WAC

WAC 284-24C-050(7) and (8) were deleted due to the enactment of 2SHB 2292, which requires insurers, self insurers, risk retention groups and surplus lines insurers to report comparable closed claim data.

WAC 284-24C-050(9) was amended to update numbering and remove the requirement to code based upon incident city, which could have led to disclosure of individual company data.

WAC 284-24C-060 was amended to:

1. Change the effective date of the rule to coincide with 2SHB 2292.
2. Clarify that insurers must begin reporting data currently required by the NAIC Statistical Handbook, as described in WAC 284-24C-040, to a designated statistical agent in 2007.
3. Clarify that insurers must begin reporting new data elements as described in WAC 284-24C-050, for claims opened on or after January 1, 2007, so that it is clear that insurers do not have to review and report on old claims.
4. Clarify that statistical data required under WAC 284-24C-050 must be reported by medical malpractice insurers to statistical agents in 2009, and that statistical agents must begin reporting these data to the commissioner in the 3rd quarter of 2009.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule. Reasons for this finding:

Date adopted:

June 15, 2006

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

**Information input by Agency
CODE REVISER'S OFFICE
STATE OF WASHINGTON FILED
JUN 15 2006**

**TIME 8:14 AM
WSR 06-13-035**

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>17</u>	Amended	_____	Repealed	<u>1</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>17</u>	Amended	_____	Repealed	<u>1</u>

Chapter 284-24B WAC

RULES THAT REQUIRE PROPERTY AND CASUALTY INSURERS TO REPORT STATISTICAL DATA

NEW SECTION

WAC 284-24B-010 Definitions that apply to this chapter.

(1) **"Insurer"** means an authorized insurer that has premium, loss or loss adjustment expense data in Washington state for one or more of these lines of insurance:

- (a) Property, as defined in RCW 48.11.040;
- (b) Marine and transportation, as defined in RCW 48.11.050, if not exempt from statistical reporting under RCW 48.19.010 (1)(e);
- (c) Vehicle, as defined in RCW 48.11.060;
- (d) General casualty, as defined in RCW 48.11.070; and
- (e) Surety, as defined in RCW 48.11.080.

(2) **"NAIC Statistical Handbook"** is a publication of the National Association of Insurance Commissioners (NAIC) that explains insurance statistical data and provides reporting requirements and report formats for data that statistical agents must submit to the commissioner.

(3) **"Statistical agent"** means an entity that the commissioner has designated under RCW 48.19.370(4) to collect insurance statistical data from insurers and report these data to the commissioner on behalf of those insurers.

(4) **"Statistical plan"** means a system for collecting information from insurers.

NEW SECTION

WAC 284-24B-020 Purpose. (1) The purpose of this chapter is to:

- (a) Incorporate the provisions of the *NAIC Statistical Handbook* into this chapter;
- (b) Prescribe the manner of reporting statistical data and the types of statistical data insurers must submit to statistical agents under RCW 48.19.370; and
- (c) Establish a procedure for the commissioner to designate statistical agents under RCW 48.19.370.

(2) This chapter does not limit the powers granted to the commissioner by any law of this state.

NEW SECTION

WAC 284-24B-030 The commissioner adopts certain statistical plans. (1) By reference, the commissioner incorporates all provisions of the *NAIC Statistical Handbook* into this rule, except:

(a) Medical Professional Liability Reports: Statistical Plan Reporting Requirements; and

(b) Medical Professional Liability Reports: Model Medical Professional Liability Statistical Plan.

(2) The commissioner will issue technical assistance advisories to notify insurers and statistical agents of the effective date of any future revisions to the *NAIC Statistical Handbook*.

NEW SECTION

WAC 284-24B-040 Insurers must report statistical experience. (1) Under RCW 48.19.370(4), the commissioner may designate certain rating organizations or other entities as statistical agents to gather, compile, and report insurance statistical data.

(2) RCW 48.19.370 says each insurer must report loss and expense experience to the commissioner. As a condition of transacting the business of insurance under RCW 48.05.040, each insurer must:

(a) Report its insurance statistical data to a statistical agent designated by the commissioner in accordance with the statistical plans filed with the commissioner by the statistical agent under WAC 284-24B-060;

(b) Comply with the reporting requirements and data quality procedures in the *NAIC Statistical Handbook*; and

(c) Adopt edit and audit procedures to screen and check data for reasonableness and accuracy.

(3) So the commissioner may assure compliance with this chapter, each insurer filing rates under chapter 48.19 RCW must include the name of its statistical agent for that line of insurance.

NEW SECTION

WAC 284-24B-050 Process for an entity to be designated a statistical agent. The commissioner may designate an entity as a statistical agent if the entity makes a written request to the commissioner that:

(1) Identifies the line(s) of business for which the entity will collect and report statistical experience;

(2) States the entity's qualifications to act as a statistical agent; and

(3) Agrees to:

(a) Comply with the reporting requirements and data quality procedures in the *NAIC Statistical Handbook*, and all rules, technical advisories and directives issued by the commissioner;

(b) Report statistical data to the commissioner in a timely manner; and

(c) Submit to an examination in accordance with procedures described in RCW 48.03.010.

NEW SECTION

WAC 284-24B-060 Statistical agents must file their statistical plans with the commissioner. Entities that are designated as statistical agents under WAC 284-24B-050 must promptly file with the commissioner:

(1) Their statistical plans, including standard report formats; and

(2) All changes in their statistical plans or reporting formats.

NEW SECTION

WAC 284-24B-070 Statistical agents must comply with the NAIC Statistical Handbook. Statistical agents must collect statistical data in a form and detail as required by the *NAIC Statistical Handbook* and any additional detail required by rules adopted by the commissioner.

NEW SECTION

WAC 284-24B-080 Multiple statistical agents for the same line of insurance. If the commissioner designates more than one statistical agent to collect statistical data for a particular line of insurance, those statistical agents must arrange to file reports that combine all data collected by the statistical agents for that line(s) of insurance. The statistical agents may arrange among themselves for the equitable sharing of the costs to produce combined reports.

NEW SECTION

WAC 284-24B-090 Access to data. The commissioner shall have access to all statistical data that statistical agents collect to comply with this chapter. If requested by the commissioner, statistical agents must promptly provide a copy of any report produced from data that the statistical agent is required to collect under this chapter.

NEW SECTION

WAC 284-24B-100 Disclosure of data. (1) Aggregate data reported to the commissioner by statistical agents are available for public inspection.

(2) If data submitted to the commissioner by a statistical agent appear likely to identify individual insurers, claimants or insureds, or the statistical agent or an insurer asserts that data are exempt from public disclosure under RCW 48.02.120(3), such data may not be publicly disclosed until the commissioner:

(a) Notifies the statistical agent and any insurer that has asserted the data to be exempt from public disclosure of the disclosure request;

(b) Provides a thirty-day period from the date of notice for any insurer that reported data to the statistical agent to assert that its data are trade secrets or are otherwise protected from disclosure; and

(c) Provides aggrieved insurers with the opportunity to request a hearing under RCW 48.04.010 and chapter 34.05 RCW.

NEW SECTION

WAC 284-24B-110 Effective date. Insurers must affiliate with a designated statistical agent by January 1, 2007, and report data in accordance with the requirements included in the *NAIC Statistical Handbook* and the designated statistical agent's filed statistical plan.

Chapter 284-24C WAC

SPECIFIC RULES THAT APPLY TO STATISTICAL PLANS FOR MEDICAL PROFESSIONAL LIABILITY REPORTS

NEW SECTION

WAC 284-24C-010 Definitions that apply to these rules.

(1) **"Medical malpractice insurer"** means an authorized general casualty insurer that has premium, loss or loss adjustment expense data for medical malpractice insurance.

(2) **"Medical professional liability insurance"** or **"medical malpractice insurance"** provides coverage for tort claims brought against various medical-related institutions and medical professionals, such as:

(a) Institutions, including hospitals, infirmaries, nursing homes, mental institutions, blood banks, sanitariums, and clinics; and

(b) Individual medical professionals including physicians, surgeons, dentists, nurses, pharmacists, opticians, optometrists, physiotherapists, chiropractors, laboratory technicians, and various specialists.

(3) **"Medical malpractice statistical agent"** means an organization designated by the commissioner under RCW 48.19.370(4) to gather, compile and report medical malpractice statistical data.

(4) **"NAIC Statistical Handbook"** is a publication of the National Association of Insurance Commissioners (NAIC) that explains insurance statistical data and provides reporting requirements and report formats for data that statistical agents must submit to the commissioner.

(5) **"Statistical plan"** means a system for collecting information from insurers.

NEW SECTION

WAC 284-24C-020 Purpose. (1) The purpose of this chapter is to:

(a) Incorporate the provisions of chapter 284-24B WAC into this chapter;

(b) Prescribe the manner of reporting statistical data and the types of statistical data medical malpractice insurers must submit to statistical agents under RCW 48.19.370; and

(c) Establish a medical professional liability statistical plan.

(2) This chapter does not limit the powers granted to the commissioner by any law of this state.

NEW SECTION

WAC 284-24C-030 Statistical reporting for medical professional liability insurance. Each medical malpractice insurer must:

(1) Comply with the provisions of RCW 48.19.370 and chapter 284-24B WAC; and

(2) Report its insurance statistical data to a statistical agent designated by the commissioner in accordance with the statistical plans filed by the statistical agent under WAC 284-24B-060 and all additional detail required by this chapter.

NEW SECTION

WAC 284-24C-040 NAIC Statistical Handbook--Medical professional liability statistical plan reporting requirements. These data items, as specified by the *NAIC Statistical Handbook*, must be reported by each medical malpractice insurer to a medical malpractice statistical agent:

(1) Company number: Experience must be reported by the company number assigned by the medical malpractice statistical agent. Medical malpractice statistical agents must convert each company number to NAIC group and company code numbers.

(2) Accounting/calendar date:

(a) Accounting quarter (where applicable).

(b) Accounting year.

(3) Transaction identifier and amounts. Identify the following items and their respective amounts:

(a) Written premium.

(b) Paid losses.

(c) Paid allocated loss adjustment expenses.

(d) Outstanding losses.

(e) Outstanding allocated loss adjustment expense.

(4) Subline identifier:

(a) Hospital professional and other health care facilities liability.

(b) Physicians, surgeons, and dentists professional liability.

(c) Other health care professional liability.

(d) All composite rated risks.

(e) Indivisible premium policy experience.

(5) Classification codes. Individual industry classification codes describing specific coverage. In Washington, the current Insurance Services Office (ISO) five digit common statistical base classifications must be used.

(6) State indicator.

(7) Policy effective year:

(a) The effective date of the policy, defined as the beginning date of the declarations page or renewal certificate.

(b) For claims-made tail coverage, the date on which tail coverage began is required.

(8) Type of program indicator:

(a) Monoline; or

(b) Package.

(9) Date of entry into the claims-made program:

(a) The date of entry into the claims-made program is the retroactive date employed in claims-made coverage in order to exclude coverage for occurrences that took place prior to that date even though claims resulting from such occurrences are made within the policy period.

(b) Claims-made tail coverage records must include, in the date of entry into the claims-made program field, the date applicable to the basic and excess coverage.

(10) Type of policy contract identifier:

(a) Claims-made coverage - basic and excess.

(b) Claims-made coverage - tail.

(c) Occurrence coverage.

(11) Exposures. The applicable exposure is required for each of the subdivisions of experience for which separate classification codes and exposure bases exist. The current Insurance Services Office (ISO) exposure reporting basis included with the common statistical base classifications must be used.

NEW SECTION

WAC 284-24C-050 Additional medical professional liability statistical plan reporting requirements required by the commissioner. In addition to the data items specified by the *NAIC Statistical Handbook*, these data items, specific to this medical malpractice statistical plan rule, must be reported by each medical malpractice insurer to a medical malpractice statistical agent:

- (1) Claim dates:
 - (a) Incident month/year; and
 - (b) Report month/year.
 - (c) Closed month/year (closed claims only).
- (2) Additional transaction identifiers and details. Identify the following items and their respective amounts:
 - (a) Paid losses segmented by amounts paid or incurred for past and future:
 - (i) Wage loss;
 - (ii) Medical expenses; and
 - (iii) All other losses.
 - (b) Paid allocated loss adjustment expenses segmented by amounts paid for:
 - (i) Defense counsel;
 - (ii) Expert witness; and
 - (iii) All other allocated loss adjustment expenses.
 - (c) Outstanding losses segmented by amounts paid or incurred for past and future:
 - (i) Wage loss;
 - (ii) Medical expenses; and
 - (iii) All other losses.
 - (d) Outstanding allocated loss adjustment expense segmented by amounts paid or incurred for:
 - (i) Defense counsel;
 - (ii) Expert witness; and
 - (iii) All other allocated loss adjustment expenses.
- (3) Policy limit per incident.
- (4) Deductible or retention.
- (5) Medical outcome classifications (use only one code):
 - (a) Emotional only: Fright, no physical damage.
 - (b) Temporary: Slight - lacerations, contusions, minor scars, rash. No delay.
 - (c) Temporary: Minor - infections, mis-set fracture, fall in hospital. Recovery delayed.
 - (d) Temporary: Major - burns, surgical material left, drug side effect, brain damage. Recovery delayed.
 - (e) Permanent: Minor - loss of fingers, loss or damage to organs. Includes nondisabling injuries.

(f) Permanent: Significant - deafness, loss of limb, loss of eye, loss of one kidney or lung.

(g) Permanent: Major - paraplegia, blindness, loss of two limbs, brain damage.

(h) Permanent: Grave - quadriplegia, severe brain damage, lifelong care or fatal prognosis.

(i) Permanent: Death.

(6) Act or omission classification, as follows:

(a) Diagnosis related;

(b) Anesthesia related;

(c) Surgery related;

(d) Medication related;

(e) Intravenous and/or blood products related;

(f) Obstetrics related;

(g) Treatment related;

(h) Monitoring related;

(i) Biomedical equipment and/or product related;

(j) Behavioral health related; or

(k) All other.

(7) Territory indicator for the county of the principal location in which the incident of alleged medical malpractice occurred.

NEW SECTION

WAC 284-24C-060 Effective dates. (1) Medical malpractice insurers must:

(a) Comply with chapter 284-24B WAC, affiliate with a designated medical malpractice statistical agent by January 1, 2007, and promptly begin reporting data required under WAC 284-24C-040; and

(b) Begin reporting statistical data specified under WAC 284-24C-050 for claims opened on or after January 1, 2007, to a designated medical malpractice statistical agent in calendar year 2009 in accordance with the medical malpractice statistical agent's filed statistical plan.

(2) Medical malpractice statistical agents must begin reporting statistical data under these rules to the commissioner by September 30, 2009.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-24-015

Statistical plans and designation
of statistical agents.